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6-18-2003

# FEES. VOTE REQUIREMENT. REPEAL. INITIATIVE CONSTITUTIONAL AMENDMENT.

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SECRETARY OF STATE  
**KEVIN SHELLEY**  
STATE OF CALIFORNIA

December 8, 2003

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS AND  
PROPOSERS (03363)

FROM: Brianna Lierman  
BRIANNA LIERMAN  
ELECTIONS ANALYST

SUBJECT: FAILURE OF INITIATIVE #981

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures to the hereinafter named INITIATIVE CONSTITUTIONAL AMENDMENT filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: FEES. VOTE REQUIREMENT. REPEAL.

RECEIVED

SUMMARY DATE: 06/18/03

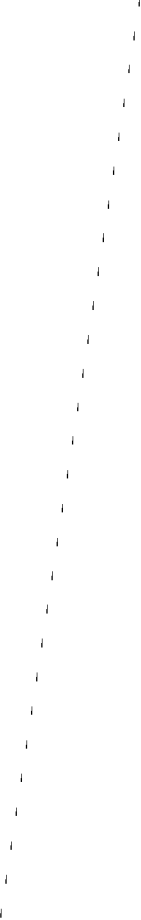
DEC 10 2003

LIBRARY  
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PROPOSERS: Larry McCarthy and Allan S. Zaremborg

ELECTIONS DIVISION

1500 11TH STREET - 5TH FLOOR • SACRAMENTO, CA 95814 • (916) 657-2166 • WWW.SS.CA.GOV





SECRETARY OF STATE  
**KEVIN SHELLEY**  
STATE OF CALIFORNIA

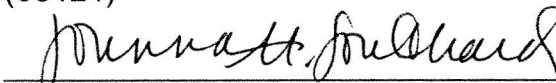
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JUN 20 2003

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June 18, 2003

TO: ALL REGISTRARS OF VOTERS/COUNTY CLERKS AND PROPONENTS  
(03124)

FROM:   
Joanna Southard, Program Manager  
Ballot Pamphlet & Initiatives

SUBJECT: **INITIATIVE #981**

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**FEES. VOTE REQUIREMENT. REPEAL.  
INITIATIVE CONSTITUTIONAL AMENDMENT.**

The proponents of the above-named measure are:

Larry McCarthy and Allan S. Zaremborg  
c/o Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP  
770 L Street, Suite 800  
Sacramento, CA 95814  
ATTN: Richard D. Martland

(916) 446-6752

ELECTIONS DIVISION

1500 11<sup>TH</sup> STREET - 5<sup>TH</sup> FLOOR • SACRAMENTO, CA 95814 • (916) 657-2166 • [WWW.SS.CA.GOV](http://WWW.SS.CA.GOV)

**#981**  
**FEES. VOTE REQUIREMENT. REPEAL.**  
**INITIATIVE CONSTITUTIONAL AMENDMENT.**

**CIRCULATING AND FILING SCHEDULE**

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1. Minimum number of signatures required:..... 598,105  
California Constitution, Article II, Section 8(b)
2. Official Summary Date: ..... Wednesday, 06/18/03
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (EC §336)..... Wednesday, 06/18/03
  - b. Last day Proponent can circulate and file  
with the county. All sections are to be filed at the  
same time within each county (EC §336, 9030(a))..... Monday, 11/17/03\*
  - c. Last day for county to determine total number of  
signatures affixed to petitions and to transmit total  
to the Secretary of State (EC §9030(b)). ..... Monday, 12/01/03  
  
(If the Proponent files the petition with the county on a date prior to 11/17/03, the  
county has eight working days from the filing of the petition to determine the total  
number of signatures affixed to the petition and to transmit the total to the  
Secretary of State) (EC §9030(b)).
  - d. Secretary of State determines whether the total number  
of signatures filed with all county clerks/registrars of  
voters meets the minimum number of required signatures,  
and notifies the counties..... Wednesday, 12/10/03\*\*
  - e. Last day for county to determine total number of qualified  
voters who signed the petition, and to transmit certificate  
with a blank copy of the petition to the Secretary of State  
(EC §9030(d)(e)) ..... Monday, 01/26/04

\* Date is adjusted for actual deadline, which falls on a Saturday.

\*\*Date varies based on the date of county receipt of verification.

**INITIATIVE #981**

**Circulating and Filing Schedule continued:**

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(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 12/10/03, the last day is no later than the thirtieth day after the county's receipt of notification).(EC §9030(d)(e)).

- f. If the signature count is more than 657,916 or less than 568,200 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 568,200 and 657,916 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures (EC §9030(f)(g); 9031(a)).....Thursday, 02/05/04\*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (EC §9031(b)(c))..... Monday, 03/22/04

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 02/05/04, the last day is no later than the thirtieth working day after the county's receipt of notification) (EC §9031(b)(c)).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (EC §9031(d); 9033) .....Friday, 03/26/04\*

\*Date varies based on receipt of county certification.

## IMPORTANT POINTS

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- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal. App. 3d 825, 177 Cal. Rptr. 621; 63 Ops. Cal. Atty. Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

Enclosures

**BILL LOCKYER**  
Attorney General

*State of California*  
**DEPARTMENT OF JUSTICE**



1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550  
Public: (916) 445-9555

Facsimile: (916) 324-8835  
Phone: (916) 324-5490

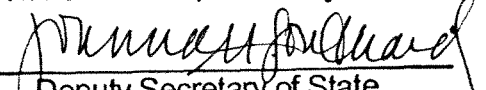
June 18, 2003

**FILED**  
in the office of the Secretary of State  
of the State of California

Kevin Shelley  
Secretary of State  
1500 - 11<sup>th</sup> Street, 5<sup>th</sup> Floor  
Sacramento, California 95814

**JUN 18 2003**

KEVIN SHELLEY, Secretary of State

By   
Deputy Secretary of State

RE: Initiative Title and Summary  
SUBJECT: FEES. VOTE REQUIREMENT. REPEAL.  
INITIATIVE CONSTITUTIONAL AMENDMENT.  
FILE NO: SA2003RF0011

Dear Mr. Shelley:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed our title and summary to the proponents of the above-identified proposed initiative.

Enclosed is a copy of our transmittal letter to the proponents, a copy of our title and summary, a declaration of service thereof, and a copy of the proposed measure.

According to information available in our records, the names and addresses of the proponents are as stated on the declaration of service.

Sincerely,

  
TRICIA KNIGHT  
Initiative Coordinator

For BILL LOCKYER  
Attorney General

TK  
Enclosures



Date: June 18, 2003  
File: SA2003RF0011

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**FEES. VOTE REQUIREMENT. REPEAL. INITIATIVE CONSTITUTIONAL**

**AMENDMENT.** Requires two-thirds vote of each house of the Legislature, instead of current majority vote, to enact fees exceeding reasonable cost of regulating an activity, or fees to monitor, study or mitigate the effects of an activity without imposing significant regulatory obligation. Repeals any such fee in 5 years, unless reenacted by two-thirds vote of each house of the Legislature. Excludes certain real property assessments and fees, monies recoverable as damages, remedial expenses or penalties from specific events. Not applicable to fees enacted before January 1, 2003, or increases due to inflation or greater workload. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Potentially significant decrease in state revenues from certain regulatory fees, depending upon future legislative actions.

April 23, 2003

**RECEIVED**  
APR 23 2003

**VIA PERSONAL DELIVERY**

The Honorable Bill Lockyer  
Attorney General  
1300 I Street  
Sacramento, CA 95814

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary- Initiative Constitutional Amendment

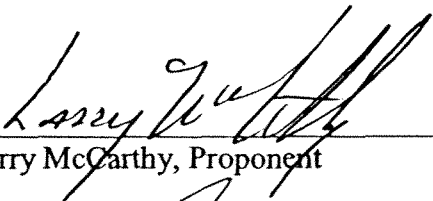
Dear Mr. Lockyer:

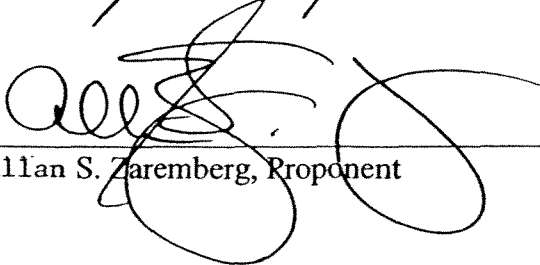
Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, we hereby request that a title and summary be prepared for the attached initiative constitutional amendment (Amendment 1). Enclosed is a check for \$200.00. Our residence addresses are attached.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 770 L Street, Suite 800, Sacramento, CA 95814, (916) 446-6752, Attention: Richard D. Martland.

Thank you for your assistance.

Sincerely,

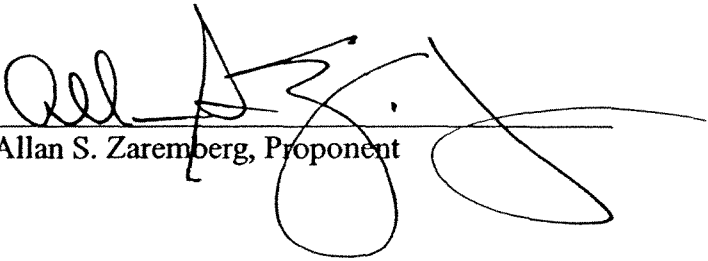
  
Larry McCarthy, Proponent

  
Allan S. Zaremberg, Proponent

Enclosure: Proposed Initiative

SA2003RF0011

I, Allan S. Zaremborg, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

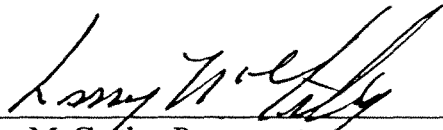
  
Allan S. Zaremborg, Proponent

Dated this 23<sup>rd</sup> day of April, 2003.

**RECEIVED**  
APR 23 2003

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

I, Larry McCarthy, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

  
\_\_\_\_\_  
Larry McCarthy, Proponent

Dated this 23<sup>rd</sup> day of April, 2003.

**RECEIVED**  
APR 23 2003

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

(Amendment 1)

SEC. 1. Findings and Declarations of Purpose

The People of the State of California Find and declare that:

(a) Since the enactment of Proposition 13 in 1978 the Constitution of the State of California has required that increases in state taxes be adopted by not less than two-thirds vote of members elected to each house of the Legislature.

(b) Increasingly, fees instead of taxes are being enacted by the Legislature to avoid the two-thirds vote requirement.

(c) Efforts are underway to put initiatives before the People that reduce from two-thirds to 55% the votes necessary to increase State taxes.

(d) Those who favor the status quo have a right to resist such efforts by placing competing measures on the ballot.

(e) In order to counter those measures that would reduce from two-thirds to 55 percent the number of votes required to raise taxes, this measure would require a vote of two-thirds in each house of the Legislature to raise taxes.

(f) In order to limit the enactment of fees to avoid the two-thirds vote requirement for taxes, this measure would require a two-thirds vote in each house of the legislature to enact specified fees and would limit the duration of these specified fees to five years unless reenacted for further five year periods by a two-thirds vote of members elected to each house of the Legislature.

SEC. 2. Article XIII A, section 3 of the California Constitution is amended to read:

Sec. 3. (a) From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation, *or any increase in fees specified in subdivision (b) for any purpose*, must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.

*(b) Fees covered by this section are compulsory fees enacted after January 1, 2003 to monitor, study or mitigate the societal or economic effects of an activity, and which impose no significant regulatory obligation on the fee payor's activity other than the payment of the fee, and regulatory fees that exceed the reasonable cost of regulating the activity for which the fee is charged. For purposes of this section, fees do not include an "assessment" or "fee" as defined in Article XIII D, sections 2(b) and 2(e), real property development fees, regulatory fees that do not exceed the reasonable cost of regulating the activity for which the fee is charged, or monies recoverable as damages, remedial expenses or penalties arising from a specific event.*

*(c) This section shall not apply to 1) any fee that was authorized by law prior to January 1, 2003, 2) any increase in such fee attributable to inflation, or 3) any increase in such fee attributable to increased workload, provided such increased workload is not the result of expansion of the class of activity or activities to which the fee applied prior to January 1, 2003.*

*(d) Any statute creating a fee subject to this section is repealed five years from the date of enactment unless enacted for successive periods of no more than five years each in the manner set forth in subdivision (a) of this section.*

SEC. 3. Article IV, section 12 of the California Constitution is amended to read:

Sec. 12. (a) Within the first ten days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, the Governor shall recommend the sources from which the additional revenues should be provided.

(b) The Governor and the Governor-elect may require a state agency, officer or employee to furnish whatever information is deemed necessary to prepare the budget.

(c) The budget shall be accompanied by a budget bill itemizing recommended expenditures. The bill shall be introduced immediately in each house by the persons chairing the committees that consider appropriations. The Legislature shall pass the budget bill by midnight on June 15 of each year. Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools, are void unless passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring.

*(e) Tax bills increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be enacted in accordance with Section 3 of Article XIII A.*

(e) (f) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

SEC. 4. Any fee subject to Section 3 of Article XIII A that was enacted on or after January 1, 2003 and before the effective date of this measure by less than two-thirds of all members elected to each of the two houses of the Legislature is repealed and may be enacted only in accordance with Section 3 of Article XIII A.

SEC. 5. In the event that this measure and another measure or measures relating to the legislative votes required to increase taxes or enact fees shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure relating to the legislative votes required to increase taxes or enact fees shall be null and void.

SEC. 6. If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.